

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHELBY M KELLIS
Claimant

APPEAL 22A-UI-04441-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 03/15/20
Claimant: Appellant (2)

PL 116-136 Section 2104 – Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the January 25, 2022 (reference 06) unemployment insurance decision that found claimant's request for waiver of FPUC overpayment was denied. The claimant was properly notified of the hearing. A telephone hearing was held on March 22, 2022. The claimant participated personally and was represented by Susan Kellis, Hearing Representative. The administrative law judge took official notice of the claimant's administrative record.

ISSUE:

Should the claimant's FPUC overpayment be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed an original claim for regular unemployment insurance benefits funded by the State of Iowa effective March 15, 2020. The claimant was paid FPUC benefits in the amount of \$1,707.85 as a supplement to their eligibility for regular unemployment insurance benefits.

In a decision dated September 23, 2021 (reference 01), it was determined that the claimant was not eligible for benefits. Claimant was then determined to be overpaid FPUC benefits in the amount of \$1,707.85. Claimant filed an application for waiver of the overpayment of benefits.

FPUC benefits were initially paid to the claimant because no initial determination finding the claimant was not eligible had been made at that time. Claimant was advised throughout the appeals process to continue to file weekly claims, even if denied benefits.

The claimant used the benefits received to pay for necessary living expenses, including, food, shelter and clothing. The claimant's current income is \$100.00 a month. She is currently living with her mother who helps pay some of her expenses. Claimant's monthly expenses typically exceed her monthly income. Claimant has no other savings for which to repay the overpayment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

PL 116-136 Section 2104 of the CARES Act created a program in which an additional \$600.00 per week was payable to claimants who were eligible for at least \$1.00 per week in benefits stemming from other programs including regular unemployment insurance funded by the State of Iowa, Pandemic Emergency Unemployment Compensation, Pandemic Unemployment Assistance, Iowa Extended benefits, and Trade Act benefits. This initial program ran from March 29, 2020 through July 25, 2020. Claimants were only eligible to receive FPUC payments if they were entitled to receive benefits from another applicable program. The payments of FPUC benefits were automatic so long as a claimant was determined to be eligible under one of the other applicable programs.

On December 27, 2020, the President signed into law the Consolidated Appropriations Act, 2021, which includes Division N, Title II, Subtitle A, the Continued Assistance Act. Section 203 reauthorized the FPUC program for weeks of unemployment beginning after December 26, 2020 and ending on or before March 14, 2021 and modified the weekly supplement payment to \$300.00. On March 11, 2021, the President signed the American Rescue Plan Act of 2021 (ARPA). Section 9103 of ARPA amends Section 2104 of the CARES Act of 2020 and extended the FPUC program for weeks of unemployment ending on or before September 6, 2021. On May 11, 2021, Governor Reynolds announced that Iowa would end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for FPUC benefits in Iowa was the week ending June 12, 2021. The CARES Act provides that a State agency may waive repayment of an overpayment in certain circumstances.

PL 116-136, Sec. 2104(f)2 provides:

EMERGENCY INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.

(f) Fraud and Overpayments. –

- (1) In general. – If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal Pandemic Unemployment Compensation to which such individual was not entitled, such individual –
 - (A) Shall be ineligible for further Federal Pandemic Unemployment Compensation in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and
 - (B) Shall be subject to prosecution under section 1001 of title 18, United States Code.
- (2) Repayment – In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amount of such Federal Pandemic Unemployment Compensation to the State agency, except that the State agency may waive such repayment if it determines that –
 - (A) the payment of such Federal Pandemic Unemployment Compensation was without fault on the part of any such individual and;
 - (B) such repayment would be contrary to equity and good conscience.

In determining whether the payment of FPUC benefits was without fault on the part of the claimant, several factors must be considered. Those factors include whether a material statement or representation was made by the claimant in connection with the application for benefits and whether the claimant knew or should have known that the statement was

inaccurate; whether the claimant failed or caused another to fail to disclose a material fact in connection with the application for benefits that resulted in the overpayment and whether the claimant knew or should have known that the fact was material; whether the claimant knew or could have been expected to know that they were not entitled to the compensation payment; and whether the overpayment resulted directly or indirectly, and partially or totally, from any act or omission of the claimant or of which the claimant had knowledge and which was erroneous or inaccurate or otherwise wrong. Cf. Iowa Admin. Code r. 871-24.50(7)(factors for waiver of temporary extended unemployment compensation).

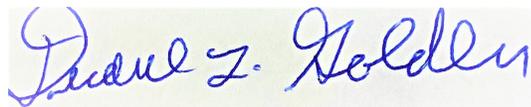
In deciding whether repayment would be contrary to equity and good conscience, several factors must be considered. Those factors include whether repayment would cause financial hardship to the claimant; or, that the claimant (regardless of financial circumstances) can establish that they have relinquished a valuable right or changed positions for the worse; or, recovery would be unconscionable under the circumstances. See UIPL No. 20-21(4)d. Other factors include whether the overpayment was the result of a decision on appeal; whether the state agency had given notice to the claimant that they may be required to repay the overpayment in the event of a reversal of the eligibility determination on appeal; and whether recovery of the overpayment will cause financial hardship to the claimant. Cf. Iowa Admin. Code r. 871-24.50(7)(factors for waiver of temporary extended unemployment compensation).

The claimant was initially paid FPUC benefits due to their initial eligibility for regular unemployment insurance benefits; however, the claimant was later determined to be ineligible for those benefits. No material misstatements or misrepresentations were made by the claimant when filing for benefits. The claimant did not know or should not have known that they would be denied regular unemployment benefits at a later date. The overpayment was not a direct result of any knowing actions or omissions of the claimant. As such, the payment of FPUC benefits was without fault on the part of the claimant. Further, based upon the claimant's financial circumstances, recovery of the overpayment would cause a financial hardship to the claimant.

As such, the claimant's overpayment amount of \$1,707.85 in FPUC benefits shall be waived and claimant has no obligation to pay back those FPUC benefits received.

DECISION:

The January 25, 2022 (reference 06) unemployment insurance decision is reversed. The claimant's overpayment of FPUC benefits in the amount of \$1,707.85 is waived in its entirety. The claimant has no obligation to pay back the FPUC benefits received.



Duane L. Golden
Administrative Law Judge

March 31, 2022
Decision Dated and Mailed

dlg/kmj